IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02/12/2003

Coram

THE HONOURABLE MR. JUSTICE M. KARPAGAVINAYAGAM, J.

CRL.O.P.No.35631 of 2003

:ORDER

There is a saying 'Love is Blind'. In this case, the so-called Love is not only blind, but also 'Deaf and Dumb'.

2. Arunagiri, the petitioner herein seeks bail in respect of the case registered against him for the offences under Sections 417, 365, 50 6 (Part-II) IPC altered into Section 376 IPC.

3. Facts of this case depict a sordid picture. Vimala, the defacto complainant gave a complaint to the Police stating that Arunagiri, the petitioner herein, who was working as a driver in her house, kidnapped her daughter 'Ezhil' and married her, suppressing the fact that he already got married and got two children through his first wife. During the course of enquiry in this bail application, this Court is shocked to find out that Ezhil, the alleg ed victim, aged about 26 years, an English literature graduate, left her home on her own and eloped with the driver, the petitioner herein and due to her insistence, he got registered their marriage in the Sub-Registrar Office, which was attested by none else than his first wife Thenmozhi. Thus, in this case, 'Ezhil', the daughter is not the victim, but the parents of 'Ezhil' are the real victims.

4. The details of this case which has got a chequered history, are as follows:-

(a) Arunagiri, aged about 30 years, is a married man having two children. He joined as driver with the father of Ezhil, Mr. Govindarajulu. Mr.Govindarajulu and Mrs.Vimala, the parents, have got two sons, Vimal and Mothi and one daughter, Ezhil. They have given education to all of them. Ezhil is a B.A. degree holder in English literature. Presently, she is doing M.A. degre e through correspondence course. She is also qualified in computer technology. She is now aged about 26 years. The petitioner joined as driver in 2001 and within a year, Ezhil, the daughter of Govindarajulu developed 'love' with him. Though initially, the petitioner resisted her love by advising her not to do that as he is already married and has got two children, he subsequently succumbed to the pressure and pleasure of love, exerted and extended by 'Ezhil'. Love affairs between them grew day by day.

(b) In the beginning of 2003, the parents have begun to make arrangements for the marriage of Ezhil. They collected about 100 horoscopes and photos of the proposed bridegrooms. But Ezhil, by giving one reason or the other, rejected all the proposals. Since the arrangements for her marriage were in full swing, Ezhil insisted the petitioner to arrange her marriage with him immediately and to register in the Sub-Registrar Office,

before her marriage with somebody else is finalised. Not only that, Ezhil went to the house of the petitioner and persuaded Thenmozhi, the first wife of the petitioner and sought her help for marrying her husband. Though initially reluctance was shown by the first wife, ultimately, she was convinced to give consent for the second marriage. Accordingly, even when Ezhil was staying with her parents, her marriage with Arunagiri was registered in the SubRegistrar Office on 19-9-2003. As noted above, it is funny to notice that the first wife Thenmozhi is the attesting witness for the registration of the said marriage. None of them informed the Sub-Registrar Office about the subsistence of the first marriage.

(c) On 24-9-2003, Ezhil was found missing. Her parents searched for her in several places. Efforts proved vain. Then, on 26-9-2003, Vimala, the mother of Ezhil gave a complaint to the Police as a girl missing case. Since the driver also was found missing, on enquiry, they suspected the driver and then they felt that the driver Arunagiri would have induced Ezhil to leave her parental home and abducted her in a deceitful manner in order to marry her, concealing the fact that he is already a married person who got two children. On the basis of the further statement by the parents, the case was altered into one under Sections 366 and 376 IPC. At that stage , Arunagiri filed an application for anticipatory bail before this Court in Crl.O.P.No.33768 of 2003.

5. Learned counsel for the petitioner, while arguing the said application, submitted that the petitioner did not abduct Ezhil and on the other hand, she only left her home on her own and willingly joined him and thereafter, both of them registered their marriage.

6. At this stage, the brother of Ezhil has filed an intervening application in Crl.M.P.No.9474 of 2003 and the same was allowed by this Court on 10-10-2003. Learned counsel for the intervenor would submit that the defacto complainant's daughter has been cheated by the driver Arunagiri who suppressed his earlier marriage and as such, anticipatory bail may not be granted to him.

7. This Court directed the parties to appear before the Court. Arunagiri was present along with his first wife as well as Ezhil, the alleged second wife. When enquired, the petitioner admitted that he already married another woman and he got two children. Hence, this Court was not inclined to grant anticipatory bail. Ezhil who was present in the Court, was not inclined to go with her parents. Therefore, as per her wish, she was directed to be under the custody of the relatives of the petitioner, by the order dated 10-10-2003. In the meantime, this Court directed the parties to settle the matter among themselves one way or the other. Since this Court was not inclined to grant anticipatory bail, the Inspector of Police arrested the petitioner and produced him before the Court concerned for judicial custody.

8. In view of the above peculiar circumstances, as requested by the counsel for the petitioner, this Court permitted the petitioner to file an application for bail directly before this Court, so that this Court could consider the bail application in the light of the fruits of settlement talks between the parties. However, in spite of several sittings, no settlement was arrived at.

9. Then, both parties filed separate affidavits before this Court stating that the matter could not be settled, as Ezhil does not want to join her parents back and she chooses to lead her life in her own way by living

with her husband Arunagiri.
10. In her affidavit, Ezhil would state that she will not make any claim and will not interfere with any affairs of her parental home and as such, she may be allowed to join her husband. Similarly, Govindarajulu, the father of Ezhil also filed an affidavit, stating that his daughter refuses to come to parental home in spite of persuasion of his family members and therefore, the parents are not prepared to accept Arunagiri as her husband, as their entire family members feel that they had been cheated by Arunagiri who was working as their driver. He would further state that even though Ezhil refused to join them, he would be ready to pay Rs.2,000/- per month to her voluntarily on his own wish and discretion for her maintenance, provided she must be residing at Chennai.
11. Recitals of the relevant portions of the affidavit dated 27-10-2003, filed by Ezhil, are as follows:
"I state that as per the decision taken by Arunagiri and myself on 19-9-2003 we got married and it was registered.
I state that I was fully aware of the fact before marrying Arunagiri that he is already married and has got two children. I obtained the consent from the first wife of Arunagiri Mrs.Thenmozhi. Due to circumstances prevailed in my family, knowing the difficulties and validity of the second marriage, I have chosen to marry Arunagiri without informing anything to my parents and my brothers. On 24-9-2003 at 10 .30 p.m. I left my parent's house on my own accord without informing anything to my family members.
I state that I am a B.A. Degree Holder and now doing M.A. in correspondence. I am qualified in Computer Technology. I have the confidence of seeking job and living separately.
I hereby state that I will not make any claim or right from the properties movable or immovable owned or to be owned by may parents or my brothers. I also state that either the accused/petitioner Arunagiri or any of his family members will not make any claim and will not interfere in any affairs of my parental home. Any of my heirs also will not have claim or right over the properties stand in the name of my parental house members.
I do not expect any monetary support from my parents or brothers. I relinquish all my rights with my parents and brothers."

12. Important portions in the affidavit dated 27-10-2003 filed by the father of Ezhil, are as follows:
"I state that I talked to my daughter, the permission being granted by this Hon'ble Court.
I state that my daughter refused to come to our house inspite of our other family members and relatives talked to her. She is of firm opinion that she can lead her life on her own and she will be no more our dependant.
I state that I have informed her that she can come back to her parental home on the day when she feels that it is not possible to proceed and live in the path she had chosen.
I state that as I have no faith on the accused Arunagiri who had cheated all our family members, in the interest of my daughter Ezhil who is now unemployed, for the bare necessities of her life, I am ready to pay Rs.2,000/- per month if she is resident of Chennai.
I also make it clear that this undertaking is given only on my own wish and discretion and either Ezhil or any other person do not have any hold

or right on this undertaking in case of any failure of payment or any contra decision being taken by me in future. "

13. On seeing these affidavits, I feel that the affidavits of both parties would reflect firmness in their respective stands. However, the father and mother in the Court broke down and stated that they feel that they have been cheated not only by their driver, but also by their daughter Ezhil, for whom they gave all comforts by providing comfortable air-conditioned room, getting admission in a renowned English convent school and giving a Car for her travel to the College. Hence, this Court felt that the parents are very much wounded and as such, interim custody of Ezhil could be handed over to them for some period. Though Ezhil is firm in joining her husband, she would unhesitatingly submit to this Court that she is prepared to stay with her parents in their house temporarily for one week and that release of her husband on bail may be considered expeditiously. Accordingly, on the basis of the willingness given by Ezhil, by the order dated 17-11-2003, the parents of Ezhil were permitted to take her and to have custody for a week from 18-11-2003, only for the reason that the wounds sustained by them at the hands of their own daughter, could be healed by her company with them for some time.
14. This Court also directed learned counsel for the petitioner to get a statement from the accused who is in jail with reference to his present attitude towards Ezhil. Accordingly, learned counsel for the petitioner met the petitioner in prison and obtained his statement in writing and the same has also been produced before this Court.
15. The statement of the petitioner-accused would disclose that the petitioner joined Mr.Govindarajulu, the father of Ezhil in the year 2 001 and within a year, love developed between them and from 2002, they lived as husband and wife. This fact was known to his first wife also. In September 2003, when the marriage proposals were made by the parents of Ezhil, they got their marriage registered on 19-9-2003. Ultimately, on 24-9-2003, Ezhil left her parental home voluntarily and joined Arunagiri. He would also state that he cannot live without Ezhil and if any situation arises where they would be prevented from living together, both may end their lives.
16. On going through the statement of the petitioner and the affidavits of the respective parties, this Court sincerely feels that there should not be any more hurdle in their joining and living together as husband and wife. The preposterous feature in this case is that the first wife herself with two children, is interested in her husband joining the second wife.
17. I am at a loss to understand as to how Ezhil, aged about 26 years, a graduate in English literature, having been educated in a renowned school and qualified in computer technology, has gone to the extent of deciding to marry a person who is already married and who has got two children. Is it true that mere education will not be enough to mould one's character? When this Court put a question to Ezhil who was present in the Court as to why she had resorted to this, the emphatic answer given by her is that, "it is purely due to lack of love to be shown to me by my mother". This answer has shocked this Court' s conscience. The entire ugly episode is not because of the parties concerned, but only because of the attitude of the parents who have not taken care of the interest of their only daughter. The parents may give thousands of comforts to their daughter. But, the real

comfort that the children would enjoy is the unqualified love to be seemingly shown to them.

18. According to learned counsel for the intervenor, the mother had put restrictions on Ezhil only in the interest of her future. But, that has been taken otherwise. This case is really a warning to the parents. This unfortunate incident gives a message that the parents should be very careful in bringing up their children, that too female children, by not only giving the comforts, but also by making them realise that both the mother and father are lovable to them. Apparently, lack of love on the part of the mother towards her daughter, without understanding the consequences, had resulted in her daughter becoming the second wife of a person who was working as a driver in her house.

19. The name "Ezhil" is a beautiful word in Tamil. Meaning of the word itself is "beauty". But, could we say that the said Ezhil added beauty either to her parental home or to the matrimonial home? The emphatic answer is 'No'.

20. However, this Court would wish them to lead a happy life. The parents of Ezhil should not put any more hurdle or give any sort of disturbance to their peaceful life.

21. The petitioner Arunagiri shall be released on bail on his executing a personal bond for a sum of Rs.100/- (Rupees one hundred only) with one surety for a like sum to the satisfaction of XVIII Metropolitan Magistrate, Saidapet, Chennai.

22. It is open for the parents of Ezhil to withdraw the complaint given against the petitioner-Arunagiri, if they so desire, so that further problem would not come to their daughter as well as to her husband, who has to maintain two families.

Index: Yes
Internet: Yes

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